

BOARD OF APPEALS CASE NO. 5319

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BEFORE THE

APPLICANT: Charles Koeneker

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ZONING HEARING EXAMINER

**REQUEST: Variance to locate a deck within the
required rear yard setback in the R3 District;
708 Scottish Isle Drive, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

Aegis: 1/1/03 & 1/8/03

HEARING DATE: February 10, 2003

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Record: 1/3/03 & 1/10/03

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Charles Koeneker, is requesting a variance, pursuant to Sections 267-36-C, Table VI, and 267-23C(1)(a)(6) of the Harford County Code, to locate a deck within the required 23 foot rear yard setback (20 feet proposed) in an R3/COS - Urban Residential / Conventional/Open Space District.

The subject parcel is located at 708 Scottish Isle Drive, Abingdon, Maryland 21009 and is more particularly identified on Tax Map 56, Grid 4C, Parcel 587, Lot 34. The parcel consists of 7000 square feet, is zoned R3/COS and is entirely within the First Election District.

Mr. Charles Koeneker appeared and represented himself as the Applicant in this case. The Applicant indicated that his lot is somewhat shallower than other lots in his neighborhood and he intends to put a deck on the rear of his home. The deck will be 14 feet wide. Without a variance, the deck could only be 10-1/2 feet wide and the Applicant indicated that 10-1/2 feet would not be useable. The Applicant indicated that most of the lots are of about the same size in his neighborhood but some rear yards are deeper than others. The Applicant indicated that the deck will extend across the entire rear of the house, a distance of about 45 feet. To the rear of the Applicant's home is an area owned by Universal Housing Corporation. The closest house to the proposed deck to the rear of the Applicant's home will be about 250 feet away. This area to the rear of Applicant's home is a large expanse of open space and forest retention area and will not, consequently, be developed. The Applicant stated that the increased width of the deck would allow the stairs to be placed in an advantageous position without decreasing further the size of the useable deck itself.

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Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. McClune agreed with the Applicant that the subject parcel was not as deep as most of the neighboring lots that could each build a 14-foot wide deck without the need for a variance. Additionally, the department of Planning and Zoning found the lot unique because of its proximity to large tract of open space and forest retention area. In Mr. McClune's opinion the lot is unique, the deck as proposed will not result in adverse impacts and the purpose of the Code (to maintain sufficient distances between structures) is satisfied because of the open space and forest retention area providing necessary buffer.

There were no protesting parties that appeared in opposition to the request.

CONCLUSION:

The Applicant, Charles Koeneke, is requesting a variance, pursuant to Sections 267-36-C, Table VI, and 267-23C(1)(a)(6) of the Harford County Code, to locate a deck within the required 23-foot rear yard setback (20 feet proposed) in an R3/COS – Urban Residential/Conventional/Open Space District.

The Harford County Code, pursuant to 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

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The Hearing Examiner, for the reasons stated by both the Applicant and the Department of Planning and Zoning, agrees that the subject parcel is unique and that no adverse impacts will result from the grant of the requested variance. The existing open space and forest retention area provides more than ample buffer to the nearest home located to the rear of the Applicant's home to satisfy the purposes of the Code.

The Hearing Examiner recommends approval of the request, subject to the Applicant obtaining any and all permits and inspections.

Date MARCH 10, 2003

William F. Casey
Zoning Hearing Examiner